

MHBU040007832023

**Order below Exh. 1 in Anti.Cri.Bail Application No.240/2023****(Chetan Dadarao Bhandare Vs. State of Maharashtra)****Order below Exh.1****(Passed on 23.8.2023)**

1. Apprehending the arrest in Crime No.204/2023 registered with Pimpalgaon Raja Police station for the offence punishable under Sections 363, 354-A of the Indian Penal Code and Section 12 of the Protection Of Children from Sexual Offences Act, the present application for grant of pre arrest bail is being filed by applicant/accused namely Chetan Dadarao Bhandare.

2. The investigating officer and learned APP Mrs. R.A. Alsì have resisted the application by filing say at Exh.6. It is contended that initially offence was registered u/s section 363 of IPC against the applicant. He was arrested and produced before the JMFC Khamgaon Court No.2. He was released on bail by that Court. Thereafter, section 354-A of IPC and sec.12 of the POCSO Act added and his bail cancelled by this Court. It is contended that the physical custody of applicant/accused is necessary for his medical examination. The investigation is yet to be done regarding newly added section 354-A of IPC and section 12 of the POCSO Act. Hence requested to reject the bail application.

3. Original complainant has resisted the application by filing protest petition vide Exh.10. It is contended that applicant/accused has kidnapped her daughter and committed sexual intercourse against victim. If he is released on bail then he will pressurized the informant and victim. Hence, she requested to reject the application.

4. The learned advocate Mr.S.J.Rathi for applicant, has submitted that applicant is ready for his medical examination and attend the police station as per condition imposed while releasing him on bail. Hence ,he urged to release the applicant on anticipatory bail.

5. The learned APP Mrs. R.A. Alsi has submitted that, applicant/accused has committed serious offence. The investigation is in progress. Hence, she urged to reject the application.

6. I have considered the submissions of both side. Perused the application and say filed by the prosecution as well as original complainant. I have gone through the entire documents and police papers placed on record.

7. After perusal of the FIR, it shows that the informant who is mother of the victim has lodged the report at Pimpalgaon Raja police station on 8.7.2023. It is alleged that on 6.7.2023 at about 2.30 p.m. her son dropped her daughter/victim in a bus going from Telhara to Shegaon to the house of her sister. At about 7.00 p.m. informant by phone call inquired to her sister regarding her daughter. She replied

that her daughter/victim did not reach there. She came to know that her daughter used to talk with applicant/accused. Applicant/accused was also not in the village Pathardi. Therefore, informant lodged the complaint against him about kidnapping of her daughter with promise to marry. Therefore, Crime No.201/2023 was registered at Pimpalgaon Raja police station u/s 363 of IPC.

8. Pimpalgaon Raja Police Station disclosed that offence took place at Pathardi within jurisdiction of Telhara Police Station .Hence, they transferred the offence to Telhara Police Station along with papers. Accordingly Telhara Police Station registered the Crime No.233/2023 under section 363 of the Indian Penal Code.It was disclosed that accused had kidnapped the victim from the Jurisdiction of Pimpalgaon Raja Police Station. Therefore, again offence was transferred to Pimpalgaon Raja Police Station by the Telhara Police Station .Hence, crime No. 204/ 2023 registered under section 363 of the Indian Penal Code. Applicant/accused was arrested and produced before the JMFC Khamgaon and released on bail for the offence punishable u/s 363 of IPC. Thereafter, police have added section 354-A of IPC and Sec.12 of the POCSO Act. Police had given report to the JMFC Khamgaon for cancellation of bail and permission to arrest the accused. As JMFC Khamgaon shown inability for cancellation of bail. Therefore, on the report of Pimpalgaon Raja Police station ,this Court has cancelled the bail.

9. After perusal of police papers, it shows that victim is a 16 years old girl. Her statement before police dated 14.7.2023 shows that applicant /accused is her friend. On 7.7.2023 she made phone call to the applicant. Applicant/accused told her to accompany with her to go to Shegaon. Therefore, he took her by motorcycle at Khamgaon. Hence, victim along with applicant by bus went to the Shegaon. They stayed there. Thereafter on 8.7.2023 she along with applicant went to the Buldhana and returned to the Shegaon in the evening. They stayed there till 14.7.2023 in Mandir premises. Applicant had not done anything forcibly with her. As per statement of victim under section 164 of Cr.P.C. dated 20.07.2023 accused threatened to commit suicide unless victim established physical relation with her. As per supplementary statement of victim dated 22.07.2023 accused used to asked her to keep physical relation with him but she refused to do so. Therefore, accused did not establish physical relation with her. On the other hand the mother of victim in her statement under section 164 of Cr.P.C. dated 20.07.2023 stated that victim had stated her that accused forcibly established physical relation with her. Her statement is contrary to victim. However, police have added Section 354-A of IPC and Section 12 of POCSO Act.

10. Alleged offences provides punishment of lesser than seven years imprisonment. Investigating officer seeking custody of accused for his medical examination. Applicant is ready to face medical examination and abide each and every condition imposed while releasing on anticipatory bail. In such circumstances if the applicant accused

released on anticipatory bail on certain conditions then the prosecution will not be prejudice .Hence the applicant is entitled to be released on pre arrest bail. In result I pass the following order :-

ORDER

- 1] Application Exh.1 is allowed.
- 2] In the event of arrest of the applicant/accused namely Chetan Dadarao Bhandare in the Crime No. 204/2023 registered with Pimpalgaon Raja Police Station on the report of informant for the offences punishable under sections 363, 354-A of I.P.C. and sec.12 of the POCSO Act, against the applicant, he be released on bail on his executing PR bond of Rs.25,000/- (Rs.Twenty Five Thousand only) with one one solvent surety in the like amount on conditions that:-
 - [i] The applicant shall face his medical examination when asked by the Investigating officer.
 - [ii] He shall co-operate the investigating officer in investigation and thereafter, he shall make himself available for interrogation as and when asked by him.
 - [iii] The applicant shall not pressurize, threat the victim and shall not enter the locality where the victim and her family reside until further order.
- 3] Inform concerned police station accordingly.

Dated-23.8.2023

(G.B.Jadhav)
Addl.Sessions Judge, Khamgaon,
Dist. Buldhana.

Certificate

I certify that this order PDF uploaded is a true and correct copy of original signed order.

Name of Steno : Mrs. Nishat Anjum Mohd. Rafique.

Name of Court : Addl. Sessions Judge, Khamgaon.